

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
(Filed Electronically)**

CHRISTINE CONNER and JAMES CONNER,	:	CASE NO.:
	:	
	:	JUDGE:
Plaintiffs,	:	MAGISTRATE:
	:	
vs.	:	MARION COUNTY SUPERIOR COURT 11
	:	CAUSE NO. 49D11-2209-CT-032907
JO-ANN STORES, LLC,	:	
	:	<u>NOTICE OF REMOVAL</u>
Defendant.	:	

Pursuant to 28 U.S.C. §§ 1446 and 1441 and with full reservation of any and all defenses, objections, and exceptions, including but not limited to objections to service, personal jurisdiction, venue, and statute of limitations, Defendant Jo-Ann Stores, LLC, (“Jo-Ann”), through counsel, provides this Notice of Removal of this civil action to the United States District Court for the Southern District of Indiana, and respectfully represents that:

1. On or about September 23, 2022, Plaintiffs Christine Conner and James Conner commenced an action in the Marion Superior Court, State of Indiana, captioned *Christine Conner and James Conner v. Jo-Ann Stores, LLC*, Cause No. 49D11-2209-CT-032907. Pursuant to 28 U.S.C. § 1446(a), Plaintiffs’ Complaint is attached as Exhibit A to this Notice of Removal.

2. Plaintiffs served their Complaint against Jo-Ann on or about September 27, 2022 by certified mail. Jo-Ann’s answer or other responsive pleading is due 20 days later on October 17, 2022.

3. Pursuant to 28 U.S.C. § 1441, Jo-Ann seeks removal of Marion County Superior Court Cause No. 49D11-2209-CT-032907 to the United States District Court for the Southern District of Indiana. 28 U.S.C. § 97. As will be shown more fully below, this Court has original

jurisdiction pursuant to 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiffs, citizens of Indiana, and Jo-Ann, a citizen of Ohio. Further, the amount in controversy, exclusive of interest and costs, exceeds the requisite sum of \$75,000.00. Defendant has presented a proposed stipulation for the Plaintiffs to agree that their damages do not exceed \$75,000, and Plaintiffs are unwilling to execute a stipulation to this effect. Removal is appropriate as Jo-Ann seeks removal within thirty (30) days after service of Plaintiffs' Complaint on Jo-Ann on or about September 27, 2027 and it has been less than one year since this action was originally filed on September 23, 2022. See 28 U.S.C. § 1446(b). Accordingly, this action may be removed to this Court.

DIVERSITY JURISDICTION
Diversity of Citizenship

4. The controversy between Plaintiffs and Jo-Ann here is a controversy between citizens of different states.

5. At all times relevant to this matter, Plaintiffs Christine Conner and James Conner were and are residents and citizens of Indiana.

6. At all times relevant to this matter, Jo-Ann was and is a limited liability company in Ohio with a main administrative office and principal place of business at 5555 Darrow Road, Hudson, Ohio. See Business Information from the Indiana Secretary of State, attached as Exhibit B. All members of Jo-Ann Stores, LLC's are domiciled in and/or citizens of Ohio. Jo-Ann was not, at the time of commencement of this action, nor at any time thereafter, a citizen of the State of Indiana.

7. There are no other parties to this action. There is diversity of citizenship between Plaintiffs and Defendant.

Amount in Controversy

8. In Paragraph 6 of her Complaint, Plaintiff Christine Conner alleges the following damages as a direct and proximate cause of the alleged incident:

Plaintiff Christine Conner sustained permanent injuries to her person, including but not limited to a displaced comminuted fracture of the inferior pole of the right patella.

She has incurred doctor, hospital, and medical expenses, and she will continue to incur such expenses in the future as a result of her injuries.

She has incurred miscellaneous and incidental expenses as a result of her injuries, and will incur such expenses in the future as a result of her injuries.

She has endured pain, suffering, and mental anguish, and she will continue to endure pain, suffering, and mental anguish as a result of her injuries.

Her ability to function as a whole person has been impaired.

(Comp., Ex. A, at ¶ 6).

9. The medical billing that Plaintiff seeks to recover in this lawsuit exceeds \$62,000. This is in addition to damages for past and future pain and suffering that Plaintiff is seeking to recover in this lawsuit.

10. Plaintiff has issued a settlement demand to Defendant in excess of \$75,000.

11. The monetary jurisdictional prerequisite to federal jurisdiction under 28 U.S.C. §1332(a) is satisfied.

12. The amount in controversy therefore is in excess of \$75,000.

Other Removal Requirements

13. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served in this action are attached as Exhibit C: State Court Record (state court docket sheet, Complaint, Appearance, Summons, Certified Mail Return).

14. As required by 28 U.S.C. § 1446(b), this Notice of Removal was filed within thirty (30) days after receipt through service of the Complaint in this action.

15. A true and correct copy of this Notice of Removal will be filed with the Clerk of Court for the Marion County Superior Court, State of Indiana, as required by 28 U.S.C. § 1446(d).

16. As all conditions and procedures for removal have been satisfied, this cause is properly removed to the United States District Court for the Southern District of Indiana.

WHEREFORE, Jo-Ann Stores, LLC prays that the above numbered and entitled cause on the docket of the Marion Superior Court, State of Indiana, be removed from that Court to the docket of the United States District Court for the Southern District of Indiana.

Respectfully submitted,

/s/ Robert W. Schrimpf

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Attorney for Jo-Ann Stores, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent on October 13, 2022 via electronic mail to the following:

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ATTORNEYS FOR PLAINTIFFS

/s/ Robert W. Schrimpf

Attorney for Defendant Jo-Ann Stores, LLC